

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

|                               |   |                               |
|-------------------------------|---|-------------------------------|
| WALTER A. TORMASI,            | : |                               |
|                               | : |                               |
| Petitioner,                   | : | Civ. No. 18-16340 (GC)        |
|                               | : |                               |
| v.                            | : |                               |
|                               | : |                               |
| ATTORNEY GENERAL OF THE STATE | : | <b>MEMORANDUM &amp; ORDER</b> |
| OF NEW JERSEY,                | : |                               |
|                               | : |                               |
| Respondent.                   | : |                               |
|                               | : |                               |

**CASTNER, District Judge**

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On February 28, 2023, this Court denied the habeas petition but granted a certificate of appealability in the event Petitioner chose to appeal. (See ECF 19 & 20). Petitioner then filed a notice of appeal and a motion for leave to appeal *in forma pauperis*. (See ECF 21 & 23). Therefore, the Clerk will be ordered to reopen this case so that the Court can rule on Petitioner's motion for leave to appeal *in forma pauperis*. Petitioner's motion for leave to appeal *in forma pauperis* will be granted based on the information provided therein.<sup>1</sup>

Accordingly, IT IS this 6th day of April, 2023,

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<sup>1</sup> This Court notes that it previously denied Petitioner's request to proceed *in forma pauperis* in this Court. (See ECF 19 at 33-34). Petitioner's inmate trust account indicated that he had over \$200.00. Thus, pursuant to this Court's Local Civil Rule 81.2, Petitioner was not entitled to *in forma pauperis* status in this Court given the filing fee in this Court is only \$5.00. Nevertheless, the Third Circuit's Local Rules do not appear to have such a threshold. Further, given that Petitioner has only approximately \$460.00 in his prisoner account, and would presumably owe the \$505.00 filing fee on his notice of appeal, this Court finds Petitioner's motion to proceed *in forma pauperis* on appeal can and should be granted.

ORDERED that the Clerk shall reopen this case so that the Court can rule on Petitioner's motion for leave to appeal *in forma pauperis* (see ECF 23); and it is further

ORDERED that Petitioner's motion for leave to appeal *in forma pauperis* (ECF 23) is granted; and it is further

ORDERED that the Clerk shall serve this Memorandum & Order on Petitioner by regular U.S. mail; and it is further

ORDERED that the Clerk of this Court shall notify the Clerk of the United States Court of Appeals for the Third Circuit of this Memorandum and Order; and it is further

ORDERED that the Clerk shall reclose this case.

  
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GEORGETTE CASTNER  
United States District Judge